

SERVICE DATE - JUNE 8, 2004

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423****ENVIRONMENTAL ASSESSMENT****STB DOCKET NO. AB-303 (Sub. No. 26X)  
Wisconsin Central Ltd. - Abandonment Exemption -  
in Ashland County, WI****BACKGROUND**

In this proceeding, Wisconsin Central Ltd. (WCL) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for WCL to abandon 0.48 miles of rail line in Ashland County, Wisconsin. The line begins at Milepost 435.35 on Lake Superior then follows the lakefront 2,552 feet south to a private spur owned by the C. Reiss Coal Company. A map depicting the line in relationship to the area served is appended to the report. If the notice becomes effective, WCL will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

According to WCL, the rail line proposed for abandonment was constructed sometime between 1872 and 1885 by the Wisconsin Central Railroad along with other trackage from Ashland to Milwaukee. In 1909 the Wisconsin Central Railroad signed a lease agreement with the Soo Line Railroad Company to operate as one railroad. In 1987 the Soo Line Railroad Company sold the rail line to the newly incorporated Wisconsin Central Transportation Corporation which operated the line as WCL. In 2001, the Wisconsin Central Transportation Corporation merged into the Canadian National Railway Company. WCL states that there is now no demand for or prospect of rail service over the line, and that no traffic has originated, terminated, or moved overhead on this line segment for at least two years. Consequently, no rail traffic would be diverted to highway mode as a result of the abandonment. Abandonment of the rail line would allow the permanent closure of a highway grade crossing at Ellis Avenue.

According to WCL, the rail line is located in a combination industrial and residential setting paralleling Lake Superior. The line is roughly situated between 5<sup>th</sup> Avenue East and Vaughn Avenue. The grade of the line steepens as it slopes towards Lake Superior at the Vaughn Avenue end. The right-of-way is at least 50 feet wide, with some wider sections that extend to the Lake Superior shoreline.

WCL states that the City of Ashland has indicated an interest in converting the rail line to a trail. The Wisconsin Department of Transportation has also indicated interest in the corridor for trail use. WCL believes the abandoned line would make an excellent trail due to its proximity to Lake Superior. WCL does not believe that the rail line would be suitable as a roadway since the existing roadways well serve the traffic needs in this particular location. WCL generally holds fee title to the rail line with the exception of rail crossings. WCL is not aware of any restriction on the title to the property which would affect the transfer of title or the use of property for other than rail purposes. To the best of their knowledge, the rail line does not contain any federally granted right-of-way.

WCL states that it does not intend to appreciably remove or alter the contour of the roadbed underlying the rail line to be abandoned. The extent of disturbed areas will be kept to a minimum and limited to the right-of-way wherever possible. There are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment. WCL notes that in the event the line is converted into a trail, all culverts will remain in place prior to any sale of the rail line for this purpose. WCL records indicate that there are no structures or buildings located on or along the line.

## **ENVIRONMENTAL REVIEW**

WCL submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. WCL served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

WCL is aware that some of the coastal areas in Wisconsin, including waters of Lake Superior, are part of the Coastal Zone Management Program. WCL does not believe that the proposed abandonment will affect any land or water that would result in coastal impacts. WCL states that in the event that the rail line is converted into a trail, the current topography and its relationship to Lake Superior will remain unchanged. Nevertheless, we will recommend a condition that - prior to beginning any salvage activities - WCL shall consult with the Wisconsin Coastal Zone Management Program to determine whether Wisconsin State Coastal Management consistency certification is required.

The US Fish and Wildlife Service regional office in New Franken, WI (FWS) has indicated to WCL the location of four federally listed endangered or threatened species and one critical habitat in Ashland County. Though FWS states that there are no listed species or critical habitats currently in the project area, the agency cautions WCL that the site could be utilized by listed species/critical habitats at some future time and note that updates to their lists of threatened or endangered species are made every six months. The Wisconsin Department of Natural Resources (DNR) conducted a cursory review indicating the presence of state listed endangered or

threatened species near the project area and recommends that WCL contact its Bureau of Endangered Species for a more complete threatened or endangered species review. As salvage operations will be handled generally within the right-of-way, WCL does not believe that any listed species that might be present would be adversely affected by the proposed abandonment. However, we will recommend a condition requiring that WCL consult with the Wisconsin DNR's Bureau of Endangered Species in Madison and the New Franken regional office of the FWS prior to commencement of any salvage activities on this project.

The Wisconsin DNR has expressed their concerns to the Board's Section of Environmental Analysis (SEA) regarding the proximity of the rail line to the Ashland/Northern States Power Lakefront Superfund site. The Wisconsin DNR indicates that the salvage activities would probably not result in contamination on the site if only the trackage and ties would be removed. However, they have indicated that site contamination could occur if ballast rock and culverts are removed. Since portions along the rail line exhibit high levels of contamination, the Wisconsin DNR requests that no excavation of the rail line be conducted between Prentice Avenue and Ellis Avenue during the salvage operations. In earlier correspondence to WCL, the Wisconsin DNR also suggested the potential need for salvage and cleanup of contaminants found within the railroad property boundaries and indicated that state statutes would apply regarding such cleanup, including the potential need for a site investigation to determine the level of site contamination present. The Wisconsin DNR has additionally indicated to both WCL and SEA that shoreline stabilization is likely needed at the western end of the rail line where the line grade drops as it approaches Lake Superior. In order to address these and any other concerns they may have, we will recommend a condition that WCL consult with the Wisconsin DNR prior to commencement of any salvage activities for the proposed abandonment. We further recommend that WCL submit the results of these consultation efforts in writing to SEA prior to the onset of salvage operations.

The Environmental Protection Agency (EPA), Region 5, has raised concerns to SEA regarding culvert maintenance; revegetation with native flora; the disposal of any unrecycled ballast, rails and creosote containing wood; the location for storage and fueling of construction equipment; the prevention/control of toxic spills from any construction equipment; potential site contamination from the Ashland/Northern States Power Lakefront Superfund site; and shoreline stabilization in steep sections of the abandonment section immediately adjacent to Lake Superior. Regarding the Ashland/Northern States Power Lakefront Superfund site, EPA, Region 5, states that site contamination could become an issue if ballast or culverts are removed during salvage operations. They further note that if excavation of contaminated areas should occur, such activities should be coordinated with an appropriate on-site agency representative. Accordingly, we will recommend a consultation condition requiring WCL to contact EPA, Region 5, prior to commencement of any salvage activities on this project.

Both the EPA, Region 5, and the Wisconsin DNR have expressed significant safety concerns about the Ashland/Northern States Power Lakefront Superfund site as detailed above. Both agencies agree that contamination from the site to surrounding areas, including Lake

Superior, could result if excavation of the rail line is completed during salvage operations. In order to address this issue, we will recommend a condition that WCL shall not conduct any excavation of the rail line during salvage operations and will be prohibited from the removal of ballast, or culverts along the entire length of the rail line proposed for abandonment. We will recommend that salvage operations shall be limited to the removal of railroad tracks and ties only.

The Wisconsin Department of Transportation (WisDOT) has contacted WCL about the potential for environmental damage following the proposed abandonment. They are particularly concerned about the clean up of debris left after the salvage operation. Consequently, WisDOT requests that WCL comply with the WisDOT Abandoned Railroad Line Salvage and Clean-up Policy/Standards/Procedures following the abandonment and related activities and asks that WCL protect any associated surveying benchmarks, monumentation and mapping information for the line. WisDOT further asks that WCL remove rail, ties, and ballast at state highway crossings; and that, prior to such work, they obtain a permit from the District Maintenance section and contact the maintaining authority to coordinate these activities. Finally, WisDOT asks that WCL handle any traffic during the removal of any crossing and that they restore any such crossings in like kind. We have included a consultation condition requiring WCL to contact WisDOT prior to the onset of salvage operations of the rail line to address these and any other concerns they may have regarding the proposed abandonment. We should note that the Board does not have jurisdiction over post-abandonment maintenance of the right-of-way.

The St. Paul, Minnesota District of the Army Corps of Engineers has contacted WCL and indicated that the proposed abandonment would not require any permits under its jurisdiction and that any activities that would be conducted as part of any salvage operations would not adversely affect waters of the United States, including wetlands.

## **HISTORIC REVIEW**

WCL submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. WCL served the report on the Wisconsin Historical Society (SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected by the proposed abandonment. We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d)(1) and 36 CFR 800.8, we have determined that the proposed abandonment will not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of WCL's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

SEA has contacted the Bad River Band of the Lake Superior Tribe of Chippewa Indians and the Red Cliff Band of Lake Superior Chippewa Indians per 36 CFR 800.3(f)(2) in order to ensure that there are no National Register eligible properties of traditional religious and cultural significance that may be affected by the proposed abandonment. Both Federally recognized tribes have ancestral connections to the project area.

## **CONDITIONS**

We recommend that the following environmental conditions be placed on any decision granting abandonment authority:

1. To address the safety concerns raised by the Environmental Protection Agency, Region 5, and the Wisconsin Department of Natural Resources regarding the Ashland/Northern States Power Lakefront Superfund site, Wisconsin Central Ltd. shall be prohibited from conducting any excavation activities during salvage operations including the removal of ballast, or culverts along the entire length of the rail line proposed for abandonment. Salvage operations will be limited to the removal of railroad tracks and ties only.
2. Wisconsin Central Ltd. shall consult with the Wisconsin Department of Natural Resources prior to the commencement of any salvage activities in order to address their concerns regarding the proposed abandonment. The Wisconsin Department of Natural Resources is especially concerned regarding the need for shoreline stabilization at the western end of the rail line to prevent erosion and potential contamination from the Ashland/Northern States Power Lakefront Superfund site into Lake Superior. As a follow up, Wisconsin Central Ltd. shall summarize the results of their consultation efforts with the Wisconsin Department of Natural Resources and provide these in writing to the Section of Environmental Analysis, prior to the onset of salvage operations for the proposed abandonment of the rail line.
3. Wisconsin Central Ltd. shall, prior to the commencement of any salvage activities on the project, consult with the U.S. Environmental Protection Agency, Region 5 (Kathleen Kowal, 312-353-5206), regarding the proposed abandonment. The Environmental Protection Agency, Region 5, has raised concerns regarding culvert maintenance revegetation with native flora; the disposal of any unrecycled ballast, rails and creosote containing wood; the location for storage and fueling of construction equipment; the prevention/control of toxic spills from any construction equipment; potential site contamination from the Ashland/Northern States Power Lakefront Superfund site; and shoreline stabilization in steep sections of the abandonment section immediately adjacent to Lake Superior.
4. Wisconsin Central Ltd. shall, prior to conducting any salvage activities, consult with the Wisconsin Department of Natural Resource's Bureau of Environmental Management in Madison (Lisie Kitchel, 608-266-5248) and the US Fish and Wildlife Service regional office in New Franken, Wisconsin, regarding their concerns.

5. Prior to beginning any salvage activities, Wisconsin Central Ltd. shall consult with the Wisconsin Coastal Zone Management Program to determine whether Wisconsin State Coastal Management consistency certification is required. If consistency certification is required, Wisconsin Central Ltd. shall be prohibited from performing any salvage activities until it obtains consistency certification and shall then notify the Section of Environmental Analysis, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq.

6. In order to address the concerns raised by the Wisconsin Department of Transportation, Wisconsin Central Ltd. shall consult with the Wisconsin Department of Transportation prior to the commencement of any salvage activities for the proposed abandonment.

## **CONCLUSIONS**

Based on the information provided from all sources to date, we conclude that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **ENVIRONMENTAL COMMENTS**

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Catherine Glidden, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov) by clicking on the "E-FILING" link. **Please refer to Docket No. AB-303 (Sub No. 26X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Catherine Glidden, the environmental contact for this case, by phone at (202) 565-1542, fax at (202) 565-9000, or e-mail at [gliddenc@stb.dot.gov](mailto:gliddenc@stb.dot.gov)

Date made available to the public: June 8, 2004.

Comment due date: **June 23, 2004 (15 days).**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams  
Secretary

Attachment

EXHIBIT A

